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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,781	09/26/2003	Lance A. Ehrke	086485-9013-00	9691
23409	7590	06/14/2006	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			WONG, ALBERT KANG	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/672,781

Applicant(s)

EHRKE ET AL.

Examiner

Albert K. Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/242,792.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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1. This Office action is in response to the application filed September 26, 2003. Claims 1-59 are pending.

a. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1- are rejected under 35 U.S.C. 103(a) as being unpatentable over Mussino (5,432,507).

Regarding claim 1, the claimed commodity provider is taught as the central telemetry station (CTS). The claimed measuring device is shown in Figure 2 as the meter and the peripheral unit. The claimed gateway node is shown as the concentrator in Figure 2. Mussino does not specifically mention a network handler and a communications handle. However, Mussino teaches the same functions are performed within the concentrator. The concentrator receives messages from the central telemetry station, generates and sends requests for each of the peripheral units, and receives measured data from the peripheral units. It would have been

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obvious to include a network handler and a communications handler to perform such functions since the concentrator already performs them. One merely has to designate parts to perform specific functions.

Regarding claims 2-3, the concentrator in Mussino receives commands from the CTS and makes requests from the individual meters (col. 5, lines 40-46). This constitutes the routing function. Although a scheduler and list are not specifically taught, it would have been obvious to include such means since there must be some means to poll the meters for data and there must be some list to determine the address of the meters polled. Thus, the “handler” generates communications data based on the schedule.

Regarding claims 4-5, see figure 2. Argotel network.

Regarding claim 6, Mussino teaches the reception of digital data via a wireless network.

Regarding claim 7, Mussino uses spread spectrum communications. This includes the selection of communications channels.

Regarding claim 8, Mussino teaches that the concentrator may receive a general message to poll the meters or receive a message to poll a specific meter. This is the equivalent of a message to route to a communication device vs. a message for the gateway node.

Regarding claim 9, the use of ids and verification means is conventional in a network, and thus obvious.

Regarding claim 10, see col. 1.

Regarding claim 11, the commodity provider, the measuring device and the gateway node have been addressed in claim 1. The transceiver has been addressed in claim 7 because it is

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functionally equivalent. The programmable controller is the equivalent to the communications handler in claim 1.

Regarding claims 12-20, these limitations have been addressed in prior claims.

Regarding claim 21, the commodity provider, the measuring device and the gateway node have been addressed in claim 1. The channel selection function is addressed in claim 7.

Regarding claims 22-31, these limitations have been addressed in prior claims.

Regarding claims 32-40, these claims are the method equivalent of claims 1-11. Since the apparatus has been shown to be obvious, the method of using the apparatus in its intended manner would also have been obvious. Col. 4 teaches the use of addresses.

Regarding claim 41, the commodity provider, the measuring device and the gateway node have been addressed in claim 1. The address of a meter of interest is considered routing data. The scheduler had been addressed in claim 2.

Regarding claim 42, see rejection of claim 1 pertaining to the gateway.

Regarding claims 43-49, these limitations have been addressed in prior claims.

Regarding claim 50, this claim is the same as claim 1 except a commodity provider has been replaced with a utility provider. Mussino teaches the providing of gas, water or electricity which is considered a utility or a commodity.

Regarding claims 51-59, these limitations have been addressed above.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Johnson reference (not applied) is considered highly relevant since it provides more details pertaining to the communications network. It is intended to provide further


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examples of the obviousness of applicants' claimed invention. A complete response to this Office action should include consideration of and a discussion of the Johnson reference.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert K. Wong whose telephone number is 571-272-3057. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Albert K. Wong  
June 9, 2006

**ALBERT K. WONG**  
**PRIMARY EXAMINER**